

HOUSE BILL 2861
By Fowlkes

AN ACT to repeal to amend Tennessee Code Annotated, Section 49-2-203; Section 49-2-303 and Section 49-6-3402; and to repeal Tennessee Code Annotated, Title 49, Chapter 6, Part 40, and to enact the "Student and Employee Safe Environment Act".

WHEREAS, the General Assembly of the State of Tennessee recognizes that the learning environment of Tennessee's schools should be free from the fear of weapons and violence; and

WHEREAS, the maintaining of a safe learning environment is primarily the duty and responsibility of local boards of education; and

WHEREAS, the prevention of violent acts is a key to orderly schools, public confidence and employee morale; and

WHEREAS, safe schools require a wider range of options or alternatives for educational placement of disruptive, threatening or violent students; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Sections 49-6-4001 through 49-6-4006, are hereby repealed in their entirety and the following Sections 2 through 9 of this bill are substituted therefor.

SECTION 2. This Part of Chapter 6, Title 49, may be cited as the Student and Employee Safe Environment Act of 1996.

SECTION 3. FORMULATION AND ADMINISTRATION OF BEHAVIOR AND DISCIPLINE CODES. - (a) The governing body of each local education agency shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by such local education agency.

(b) The superintendent or other administrative head of the local education agency shall be responsible for overall implementation and supervision, and each school principal shall be responsible for administration and implementation within that school.

(c) The governing body of each local education agency shall review and redraft existing behavior and discipline codes prior to January 1, 1997. In formulating the behavior and discipline codes, the governing body of each local education agency shall seek recommendations from parents, employees, law enforcement personnel, and youth-related agencies in the community.

SECTION 4. CODE CONTENTS. - (a) Each code shall contain the type of behavior expected from each student, the consequences of failure to obey such standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged. Each code shall address the topics of language used by students, respect for all school employees, fighting, threats, weapons on school property or at school functions, damage to the property or person of others, misuse or destruction of school property, drug or alcohol abuse, the sale or distribution of drugs or alcohol, student conduct on school property, conduct in classes and such other subjects as the local governing body shall choose to include.

(b) In order to protect the rights of all students, codes shall state clearly a zero tolerance for students found with or possessing a weapon, using any object or weapon in a threatening manner, using or possessing any narcotic or stimulant drug, engaging in any physical assault,

or threatening bodily injury to any person, student or employee associated with any school related function or activity. A student shall not, through threat or use of physical force, deprive or attempt to deprive any person of any possession, including money, while on school property or at school related functions or activities. No student, guilty of these offenses, shall be allowed to attend any school in the system, except alternative schools or alternative placements designed for such offenders.

SECTION 5. UNIFORM AND FAIR APPLICATION OF CODES. - The principal of each school shall apply the code uniformly and fairly to each student at the school without partiality or discrimination. Each local education agency shall have a Discipline Review Committee, consisting of the superintendent, one (1) school board member, two (2) classroom instruction personnel, and one (1) noninstructional employee. It shall be the duty of the Discipline Review Committee to review the discipline records at each and all schools to ensure that students at all schools are subject to a uniform and fair application of the code to guard against variance from school to school.

SECTION 6. DIFFERENT CODES FOR DIFFERENT CLASSES OF SCHOOLS. - The governing body of the local education agency may choose to adopt different but consistent codes of behavior and discipline to apply to different classes of schools, such as elementary, middle, junior high, and senior high, under their jurisdiction. All such codes shall be uniform to the extent of maximum consideration for the safety and well being of students and employees.

SECTION 7. CIVIL LIABILITY. - In addition to criminal penalties provided by law, there is created a civil cause of action for an intentional assault, personal injury or injury to the personal property of students or school employees when such assault occurs during school hours, on school property or during school functions, including travel to and from school on school buses. A person who commits such an assault or injury shall be liable to the victim for all damages resulting therefrom, including compensatory and punitive damages. Upon

prevailing, the victim shall be entitled to treble damages and reasonable attorney fees and costs.

SECTION 8. ALTERNATIVE PLACEMENT. - Notwithstanding state laws to the contrary, local education agencies shall develop and adopt alternative placement options for disruptive, threatening or violent students. When the safety of other students or employees is endangered, the superintendent and other school officials or employees shall not be held liable for decisions or acts to place disruptive, threatening or violent students in available alternative school settings, in-school isolation or home placement for instruction pending a determination as to how such a student may be returned to the student's original placement without endangering other students and employees.

SECTION 9. CODE DISTRIBUTION AND POSTING. - When a code of behavior and discipline has been adopted by the governing body of a local education agency, a copy of the code shall be posted at each school and guidance counselors shall be supplied copies for discussion with students. The code shall be referenced in all school handbooks. All teachers, administrative staff and parents shall be provided copies of the code.

SECTION 10. Tennessee Code Annotated, Section 49-2-203, is amended by deleting subdivision (a)(8) in its entirety and substituting in lieu thereof the following:

(a)(8) Suspend, dismiss or alternatively place pupils when the progress or efficiency of the school make it necessary or when disruptive, threatening or violent students endanger the safety of other students or school system employees;

SECTION 11. Tennessee Code Annotated, Section 49-2-303, is amended by renumbering subdivision (b)(4) as subdivision (b)(5) and adding a new subdivision (b)(4) to read as follows:

(b)(4) Administer and implement the school behavior and discipline code; compile school violence records including reports of threatened violence against students and school employees; improve school security by limiting school access during school hours to monitored

entrances and require guest passes for all persons other than enrolled students and employees of the school;

SECTION 12. Tennessee Code Annotated, Section 49-6-3402, is amended by inserting at the end of subdivision (f) the following:

The state board of education in its rules and regulations shall require that all alternative school classrooms have working two-way communication systems making it possible for teachers or other employees to notify a principal, supervisor or other administrator that there is an emergency. Teachers and other employees shall be notified of emergency procedures prior to the beginning of classes for any school year.

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it.